-

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1433 of 2005

Between:

M. Mannemaiah S/o Gopanna
APSRTC Conductor (E-200386), Wanaparthy Bus Depot,

Mahaubnagar District

..... PETITIONER

AND

The Depot Manager, APSRTC., Wanaparthy Bus Depot,

Mahabubnagar District

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the respondent in imposing the punishment of withholding petitioners annual increment when next falls for a period of one year which shall have effect on petitioners future increments as bad, arbitrary, illegal unjust and unreasonable and violative of principles of natural justice and also contrary to the judgment of this Hon'ble Court and apex court by setting aside the final order no 02/62/(96)/94-WNP dated 15-2-1995 and consequently direct the respondent to release the increment which withheld and pass such other order or orders

Counsel for the Petitioner :MR.P.VENKATESWAR RAO

Counsel for the Respondent : Mr.P.VINAYAKA SWAMY(SC FOR APSRTC)

The Court at the stage of admission made the following :

ORDER:

The petitioner is working as a Conductor in the respondent-Corporation. He was issued a charge memo and after receiving the explanation of the petitioner, the final orders were passed on 15-02-1995 imposing the penalty of postponing one increment for a period of one year with cumulative effect. The petitioner questioned the order on the ground that though postponing one increment for a period of one year with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the order is illegal and it is liable to be set aside.

2. The learned Counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab**[1] wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without any enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of 8 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside, on account of long lapse of time in filing the writ petition and in view of the judgment of the Supreme Court in **Kulwant Singh** Gill (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as postponing the annual increment for a period of one year without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed penalty of reduction of one annual increment for one year without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations.

_____

K.C.BHANU, J.

Dt: 02-02-2005.

Rns

To

1. The Depot Manager, APSRTC.,

Wanaparthy Bus Depot,

Mahabubnagar District.

2. Two CD copies